IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6198 OF 2005

Balu Gorkha Kokre ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. Mahesh Zanuar for the Applicant.
Shri. K.V. Saste, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 28, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicant and the learned A.P.P. for the State. The offence alleged against the Applicant and the co-accused is under sections 143, 147, 148, 149, 307 and 302. The alleged offence has been committed on 19th May, 2003. The Applicant is the accused No.6.

2. Application for bail made by the Applicant before the Sessions Court has been rejected on 03rd September, 2005. The main reason given by the learned Sessions Judge for rejecting the Application is that the Applicant was absconding till 14th December, 2004. The learned Judge came to the conclusion that this fact itself is sufficient to reject the Application for bail.

3. It appears that the trial against the Applicant was separated because the Applicant was

absconding. The trial against other co-accused was concluded by the learned Sessions Judge and by Judgment and Order dated 31st December, 2004, the learned Sessions Judge acquitted all other accused persons.

4. The learned Advocate appearing for the Applicant has produced for my perusal certified copy of the Judgment and Order dated 31st December, 2004. Perusal of the said Judgment shows that all witnesses have turned hostile and infact, the complainant-first informant who also claims to be an eye-witness did not turn up for giving evidence.

5. The fact that the Applicant was absconding is certainly a relevant consideration for grant of bail. However, in the peculiar facts of this case, after a full fledged trial all co-accused have been acquitted. It is pertinent to note that in the F.I.R. the Applicant is not specifically named by the first informant. The allegation made by the first informant is that five to six persons including the two who are named therein assaulted the first informant by sword and other weapons and out of the accused three to four persons assaulted the deceased Mangesh by weapons. Thus, the co-accused who are specifically named in the

F.I.R. have been acquitted after a full fledged trial. In view of this peculiar fact, a case is made out for enlarging the Applicant on bail. However, stringent conditions will have to be imposed to ensure that the Applicant remains present at the time of trial.

6. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with **C.R.No.99 of 2003 registered with Pimpri Police Station,** subject to furnishing a personal bond of **Rs.15,000/-** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicant will report to the concerned Police Station on every Sunday at 11.00 a.m. till the conclusion of the trial.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the

prosecution evidence.

iv) The Applicant shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE